

**CHARTER TOWNSHIP OF DELTA**  
Public Meeting Room A  
Delta Township Administration Building  
7710 West Saginaw Highway  
Lansing MI 48917

**TOWNSHIP BOARD REGULAR MEETING MINUTES FOR  
MONDAY, OCTOBER 21, 2013**

**I. CALL TO ORDER**

**II. OPENING CEREMONIES – Pledge of Allegiance**

**III. ROLL CALL**

Members Present: Trustee Jeff Hicks, Trustee Dennis Fedewa, Trustee Karen Mojica, Treasurer Howard Pizzo Clerk Mary Clark, and Supervisor Kenneth Fletcher.

Members Absent: Trustee Doug Kosinski

Others Present: Community Development Director Mark Graham, Assistant Community Development Director Gary Bozek, Township Planner Chris Gruba, Fire Chief John Clark, Lieutenant Jeff Campbell, Township Engineer Gary Arnold, Township Manager Richard Watkins, and Deputy Manager Jenny Roberts.

TRUSTEE HICKS MOVED TO EXCUSE TRUSTEE R. DOUGLAS KOSINSKI.  
TRUSTEE MOJICA SUPPORTED THE MOTION.  
MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**III. PRESENTATIONS AND PROCLAMATIONS**

**V. SET/ADJUST AGENDA**

Trustee Fedewa added to the Committee of the Whole agenda the following: Proposed Resolution asking the Legislature and the Governor to amend the Elliott Larson Act to include the designation of LGBT.

TREASURER PIZZO MOVED TO APPROVE THE AGENDA AS AMENDED. TRUSTEE MOJICA SUPPORTED THE MOTION. THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**VI. PUBLIC HEARINGS**

**VII. COMMUNICATIONS**

**VIII. PUBLIC COMMENTS FOR ITEMS NOT ON AGENDA (*maximum two minutes*)**

**IX. INTRODUCTION OF ORDINANCES**

**1. Introduction of Proposed Zoning Ordinance Amendments Pertaining to Pets, Livestock and Wild Animals**

TRUSTEE FEDEWA MOVED TO INTRODUCE THE PROPOSED ZONING ORDINANCE TEXT AMENDMENTS SUBMITTED BY NICOLE SHUILING PERTAINING TO PETS, LIVESTOCK AND WILD ANIMALS. AS DESCRIBED IN CASE NO. 8-13-16.

FURTHER THESE AMENDMENTS SHALL BE CONSIDERED FOR FINAL ACTION BY THE BOARD AT THE NOVEMBER 4, 2013 REGULAR BOARD MEETING AND THE CLERK IS HEREBY DIRECTED TO PUBLISH NOTICE OF SAID MEETING IN THE LOCAL NEWSPAPERS.

TREASURER PIZZO SUPPORTED THE MOTION.

Trustee Hicks noted that the introduction alone is not a vote on the merits of the amendment.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**X. PASSAGE OF ORDINANCES**

**2. Adoption of Code of Ordinances Amendments**

The Manager's Office recommends that the Township Board adopt the amendment to the Code of Ordinances by adding a new Chapter 27 (Non-Discrimination) to prohibit discriminatory practices in Delta Township.

Attorney Gordon VanWieren states that regarding Section 27-5c – bona fide occupational qualifications, language mirrored that in the Elliott Larson Act and no changes are recommended.

Regarding Section 27-2 on the Complaint Review Committee language stating that the committee be subject to the Delta Township Ethics Policy has been incorporated.

Attorney VanWieren stated 27-3 regarding the discussion on insurance provision contained and whether the Township should track Michigan Law in terms of the Elliott Larson Act with regard to felonies and also that the section would not apply to felonies or information relative to felonies or a felony charge before a conviction

or dismissal. It has been changed to include language that is in the Elliott Larson Act.

Attorney VanWieren stated the next change was Section 27-3 concerning insurance and sub parts b2 and c. Changes were recommended after review of the Elliott Larson Act to remove the insurance requirements.

With regard to Section 27-11e – language was inserted regarding a catch all exception that allows discrimination at any time it is permitted or required under Michigan, Federal or local law. Language was added regarding preemption and believe it clarifies Delta Township’s intent – that this ordinance is not intended to preempt any law that would otherwise be in effect.

Attorney VanWieren stated regarding the Complaint Review process and prima fascia case burden of proof, after review of the Elliott Larson Act, no changes are recommended. The Rules and Procedures were distributed to the Township Board for review.

Attorney VanWieren referenced an issue raised regarding the enforceability of an action taken by the committee in terms of recommendation. Further noting under Michigan and U.S. jurisprudence there is a principle that for every wrong there should be a right or a remedy for any type of injury. Upon completion of research, in terms of a Civil Infraction, that would be appealable to the Circuit Court. However, with regard to a recommendation made by the committee, there is no provision under Michigan Court Rules or otherwise that would allow it to be appealed to the Circuit Court. Counsel recommends that if an aggrieved party disagrees with the recommendation of the Complaint Review committee that it could be appealed to the Delta Township Board for review.

Trustee Fedewa clarified that the insurance provisions were taken out; however the catch all exception was added to ensure that Delta Township is not attempting to override any State or Federal law.

Attorney VanWieren added that there are some provisions in the proposed ordinance concerning breastfeeding, specifically in Section 27-4b stating that no person shall prohibit a breastfeeding mother from or segregate a breastfeeding mother within any public accommodation where she and the child would otherwise be authorized.

Also noting under Section 27-11o, permits placing reasonable restrictions on breastfeeding in any area open to the general public. Attorney VanWieren states these provisions are permitted under current Michigan law, further noting that House Bill 4733 is currently pending which would make breastfeeding a protected class under the Elliott Larson Act. If the bill passes, Attorney VanWieren stated that the above language would not be a violation of that law.

The following people spoke in support of the Non-Discrimination Ordinance:

Ryan Sebolt  
1800 W. Ottawa  
Lansing, MI 48915

Channy Walker  
412 Looking Glass Ave  
Portland, MI 48875

Carl Struble  
5613 Sandhill Drive  
Grass Lake, MI 49240

Reverend Nicolette Siragusa  
1274 Burlington Dr  
Grand Ledge, MI 48837

Emily Dievendorf  
901 Britten Ave  
Lansing, MI 48910

Justin Lippi  
127 N. Hayford  
Lansing, MI 48912

Travis Radina  
6150 W. Michigan Ave #K10  
Lansing, MI 48917

Michael R. Crusoe  
319 N Hayford Dr  
Lansing, MI

Roxane Seboot  
414 S. Dibble  
Lansing, MI 48917

Karen Holcomb-Merrill  
6844 Lookout Lane  
Lansing, MI 48917

Phil Parmelee  
1392 Haslett Rd  
Haslett, MI 48840

Greg Briggs  
437 S 4<sup>th</sup> Ave  
Ann Arbor, MI 48104

Nicole Royce  
740 Hunting Meadows Dr  
Mason, MI 48854

Cheryl Overley  
4910 Grand Woods  
Lansing, MI 48917

The following people spoke in opposition to the Non-Discrimination Ordinance:

Roger Stair  
7418 Delta River Dr.  
Lansing, MI 48917

Pastor Al Sharp  
8029 Meadow Lane  
Portland, MI 48875

Pastor Timothy Jackson  
Community Baptist Church  
Grand Ledge, MI 48837

David Comstock  
447 Charleston Rd

Cathy Griffin  
411 Pineview Dr  
Lake Odessa, MI 48849

Greg Vaughn  
1571 N Waverly Rd  
Lansing, MI 48917

Gina Johnson  
7638 Taragreen  
Lansing, MI 48917

Joe Jackson  
1527 S Canal Rd

Lansing, MI 48917

Katie Schmidt  
217 N Church St  
Pottersville, MI

Chris Clarke  
1775 E Webb Rd  
DeWitt, MI 48820

Bob Johnson  
4806 W Willow Hwy  
Lansing, MI 48917

Dave Kallman  
5600 W Mt Hope Hwy  
Lansing, MI 48917

Linda Gruizenga  
7824 Bramblewood  
Lansing, MI 48917

Lansing, MI 48917

Doug Hartson  
4827 Pine Hill  
Pottersville, MI 48876

Kay Palinski  
4909 Canyon Tr  
Lansing, MI 48917

Mike Schmidt  
221 N Church  
Pottersville, MI 48876

Aimee Chauvin  
566 S Stine Rd  
Charlotte, MI 48813

Bill Trinklein  
2234 Coit Ave NE  
Grand Rapids, MI 49505

Kathleen Lopilato, employed by Auto Owners Insurance Company at 6101 Anacapi, Lansing, MI spoke neutrally regarding the Non-Discrimination Ordinance.

Attorney VanWieren stated that there were three changes having to do with the insurance provisions of the ordinance. Under the Elliott Larson Act there are no protections in terms of insurance in regard to home owner or rental insurance or insurance for real property. Under Sections 27-3b and c there have been changes recommended. In regard to an issue raised last week, concerning the section that talks about felonies and not applying to information relative to a felony charge before conviction or dismissal, that language was removed to be consistent with the Elliott Larson Act. The final change proposed was regarding a violation of what is permitted or required under State or Federal law and preemption issues. Language was added to address concerns that were expressed in the last few weeks concerning State and Federal law and the rights and privileges that are guaranteed or restricted by those laws.

TREASURER PIZZO MOVED THAT THE TOWNSHIP BOARD ADOPT AN AMENDMENT TO THE DELTA TOWNSHIP CODE OF ORDINANCES. THE PROPOSED AMENDMENT WOULD ADD A NEW CHAPTER 27 (NON-DISCRIMINATION) TO THE CODE OF ORDINANCES, WHICH WOULD PROHIBIT DISCRIMINATORY PRACTICES IN DELTA TOWNSHIP.

FURTHER, THE TOWNSHIP CLERK IS HEREBY DIRECTED TO PUBLISH A NOTICE OF ADOPTION OF THE AMENDMENTS IN LOCAL NEWSPAPERS AND THE AMENDMENTS SHALL BECOME EFFECTIVE UPON PUBLICATION.

CLERK CLARK SUPPORTED THE MOTION.

Supervisor Fletcher asked if there was discussion:

Trustee Hicks noted that Section 27-16 – Complaint Committee Recommendations include past discussion was that there would be a colon after the word *include* **and that but no limited to** language be removed as well as the word *may* with the notion that the Committee would not be vested with equitable powers that are typically reserved to a court of competent jurisdiction.

Also, Trustee Hicks noted that with respect to 27-13c5 was removed in a previous draft. The committee is not responsible for promulgating and publishing rules. That right is left solely to the Township Board.

Trustee Hicks notes that Section 27-5a1, previous discussion was that it would be either Michigan **or** Federal law, because of the fact that those two are contrary to each right now. That his recollection was to remove Federal and leaving under Michigan law.

With respect to 27-5a6, Trustee Hicks believes there is a carryover from previous drafts.. The last sentence was added to say that this section does not apply to felonies or information relative to a felony charge before a conviction or a dismissal. However the word felony was left in the first sentence, in order for it to be consistent with the additional sentence, felony has to be removed form paragraph 6. Trustee Hicks stated he would ask that these changes be accepted as friendly amendments to the pending motion.

It was the consensus of the Board that the changes outlined by Trustee Hicks be made in the final ordinance.

Trustee Fedewa thanked all of the participants, the thoughtful comments and the Board for input, comments and work done on the ordinance. Trustee Fedewa reiterated that if approximately 70% of citizens wanted to see this passed as suggested that perhaps a similar bill should be introduced in the legislature or a citizen initiative to modify State law.

Clerk Clark agreed that there was much valued input, with special thanks to Trustee Hicks with his background as an attorney was instrumental in many ways. Clerk Clark noted that the primary goal is to protect all citizens, including the LGBT community – who are no less deserving than others.

Trustee Hicks thanked all of the participants and noted that the Township Board has spent more time on this particular ordinance than any other in his five years on the Board. Trustee Hicks addressed the comment earlier this evening regarding what other municipalities are doing and stated that Delta Township is autonomous and decides what to take the lead on and at times may or may not be on the same page as our municipal neighbors. In regard to the comment about creating a special interest group and that a

Pandora's box would be opened. Trustee Hicks noted that thankfully others in public service historically did not ascribe to that theory, as at some point today's protected classes were at one time not protected only became such through the advocacy of others. Trustee Hicks stated that regarding citizens claims that we could just trust in our citizens to do the right thing or to live by God's word, if this were the case, there would be no need for laws at all. Trustee Hicks stated in regard to the right to appeal, the Michigan Court Rules do not provide an avenue to appeal a decision from a committee and that is why the appellate jurisdiction fell back with the Township Board. Trustee Hicks notes receiving multiple emails of varying tones either eluding to or directly stating that efforts would be made to ensure he is not re-elected if he voted for the ordinance and stated that he has never placed re-election ahead of doing what is right. Trustee Hicks encouraged the audience to continually participate in future meetings.

Treasurer Pizzo stated that his grandparents immigrated to America from Southern Europe and experienced discrimination due to language barrier and their dark skin tone. They had difficulty getting jobs, and stated the government was a huge help providing jobs through sewer drains projects and paving roads. Treasurer Pizzo doesn't want his children or grandchildren to experience the same economic and social injustices and believes this ordinance will protect them.

Supervisor Fletcher stated that he has been very impressed with the role that the township Board has played in this ordinance over the last several months. Supervisor Fletcher echoed the role of the public and their participation. Supervisor Fletcher also expressed his desire that the Elliott Larson Act addressed adding rights for the LGBT community and that the State should act on this.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

#### **XI. CONSENT AGENDA –**

Trustee Hicks requested removal of the October 14, 2013 Committee of the Whole Meeting Minutes.

Clerk Clark requested item 7. Referral of Louis J. Eyde Family be removed.

TRUSTEE MOJICA MOVED TO ADOPT THE AGENDA AS AMENDED. TRUSTEE FEDEWA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

#### **3. Bills and Financial Transactions - \$4,653,468.42**

Bond/Debt Payments	
Investments	
Payroll & Related	324,229.24
Refunds	4,012.25

Tax Distributions	3,970,289.82
Vendor Claims	354,937.11
Total	\$ 4,653,468.42

TRUSTEE MOJICA MOVED THAT THE BILLS & FINANCIAL TRANSACTIONS BE APPROVED IN THE AMOUNT OF \$4,653,468.42.

TRUSTEE FEDEWA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**4. Minutes**

October 7, 2013 Regular Board Meeting Minutes

Trustee Hicks requested that the October 14, 2013 Committee of the Whole Meeting minutes removed.

TRUSTEE MOJICA MOVED TO APPROVE THE OCTOBER 7, 2013 REGULAR BOARD MEETING MINUTES AS PRESENTED.

TRUSTEE FEDEWA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**5. Set a Public Hearing for Proposed FY 2014 Budget**

TRUSTEE MOJICA MOVED THAT THE TOWNSHIP BOARD SET A PUBLIC HEARING TO CONSIDER THE PROPOSED 2014 BUDGET FOR THE CHARTER TOWNSHIP OF DELTA.

TRUSTEE FEDEWA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**6. Acceptance of Shadow Glen No. 3 Deed of Grant and Waiver of Lien**

TRUSTEE MOJICA MOVED THAT THE TOWNSHIP BOARD ACCEPT THE DEED OF GRANT AND WAIVER OF LIEN FOR THE SANITARY SEWER AND WATER FACILITIES INSTALLED FOR THE SHADOW GLEN NO. 3 SUBDIVISION.

TRUSTEE FEDEWA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**8. Recommendation to Approve Shadow Glen No. 3 Final Plat**



TRUSTEE MOJICA MOVED THAT THE TOWNSHIP BOARD APPROVE THE FINAL PLAT OF THE 6 LOTS IN SHADOW GLEN NO. 3 SUBDIVISION.

TRUSTEE FEDEWA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**9. Recommendation to Approve Shadow Glen No. 4 Preliminary Plat**

TRUSTEE MOJICA MOVED THAT THE TOWNSHIP BOARD GRANT FINAL APPROVAL OF THE PRELIMINARY PLAT OF THE 8 LOTS IN SHADOW GLEN NO. 4 SUBDIVISION.

TRUSTEE FEDEWA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**XII. ITEMS REMOVED FROM CONSENT AGENDA FOR DISCUSSION**

**4. Minutes**

October 14, 2013 Committee of the Whole Board Meeting Minutes

Trustee Hicks noted on page 4, 27-11e, should be noted as Trustee Hick's comment and the following paragraph referencing 27-12 should be noted as Trustee Fedewa's comment.

TRUSTEE HICKS MOVED TO ADOPT THE OCTOBER 14, 2013 COMMITTEE OF THE WHOLE BOARD MEETING MINUTES AS AMENDED.

TREASURER PIZZO SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**7. Referral of Louis J. Eyde Family, LLC, George F. Eyde Family, LLC, and Eyde Construction Company, LLC Rezoning Request to the Planning Commission for the purpose of holding a public hearing.**

Clerk Clark asked for process clarification, specifically where in the process does the Board have opportunity to discuss. Assistant Community Development Director stated that this was the beginning of the process and only the referral. That the request tonight was a referral to the Planning Commission requesting that a public hearing be held, and that the Planning Commission make a

recommendation to the Board. The next action is procedural, for the Board to introduce it at a Regular Board meeting. The Board will then make the final decision as to whether the rezoning is approved. Clerk Clark asked whether the Board has latitude to make changes to the Planning Commission Recommendations and Assistant Director Bozek confirmed.

CLERK CLARK MOVED THAT THE TOWNSHIP BOARD REFER THE EYDE PROPERTIES, LLC REQUEST TO REZONE THEIR PROPERTIES TO THE PLANNING COMMISSION FOR THE PURPOSES OF HOLDING A PUBLIC HEARING.

TRUSTEE MOJICA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

### **XIII. ITEMS ADDED TO AGENDA UNDER SECTION V. SET/ADJUST AGENDA**

#### **COMMITTEE OF THE WHOLE**

- 1. Proposed Resolution asking the Legislature and the Governor to amend the Elliott Larson Act to include the designation of LGBT.**

### **XIV. ITEMS OF BUSINESS**

#### **10. Recommendation to Approve Engineering Consultant for the 2014 Water Main Replacement Projects**

The Community Development Department recommends that the Township Board award the professional engineering contract for the 2014 Water Main Replacement program to Fleis & Vandenbrink, Inc.

TRUSTEE FEDEWA MOVED THAT THE TOWNSHIP BOARD AWARD THE PROFESSIONAL ENGINEERING CONTRACT FOR THE 2014 WATER MAIN REPLACEMENT PROGRAM TO FLEIS & VANDENBRINK, INC. IN THE AMOUNT OF \$188,800.00.

TRUSTEE MOJICA SUPPORTED THE MOTION.  
Supervisor Fletcher asked if there was discussion.

Clerk Clark asked if this was for an upcoming project, Township Manager Watkins stated in FY2014. Clerk Clark asked if this was the same firm working on the Huntington Acres water main and it was confirmed that it is the same engineering firm.

Clerk Clark requested a discussion on how that project might be different than the current FY project. Trustee Fedewa asked how the Township can hold the engineer responsible for the work of the contractor. Clerk Clark questioned how that process works when the Township hires a contractor

who then supervises a contractor. Manager Watkins stated that the supervising contractor that Clerk Clark referred to is handling the construction inspection. Further stating that there have been conversations that they perhaps could have been more aggressive in the construction inspection, however they are not responsible for the delays. Manager Watkins also stated that Assistant Director Bozek reviewed the contract this year in terms of the engineering and there were very few surprises. That there have been no change orders that weren't expected. Assistant Director Bozek confirmed that there have been only 2 change orders and one is on the agenda tonight. The first change order involved adding Otis St. to the project. In sum total there is roughly about a \$1.6 million construction and what would be considered errors or omissions by the engineer – either forgetting to put in something that they would have paid for or the error has been less than \$5,000. Further stating that the quality of the plans was very good which is borne out by the bids the Township received and the small amount of change orders to date.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**11. Recommendation to Approve Change Order No. 2 – 2013 Water Main Replacement Project, Balkema Excavating, Inc.**

The Community Development Department recommends that the Township Board approve Change Order No. 2 of the 2013 Water Main Replacement Project with Balkema Excavating, Inc.

Treasurer Pizzo asked for discussion as to why the Board is doing this. Manager Watkins noted that the Township didn't expect that this project would be completed prior to snowfall this year and is why it is being removed. Treasurer Pizzo confirmed that this portion will need to be re-bid. Manager Watkins confirmed further stating that the Township purchased all of the pipe from the project and that it would need to be re-bid next year.

CLERK CLARK MOVED THAT THE TOWNSHIP BOARD APPROVE CHANGE ORDER NO. 2 OF THE 2013 WATER MAIN REPLACEMENT PROJECT WITH BALKEMA EXCAVATING, INC.

TRUSTEE MOJICA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**12. Bid Results and Recommendation for Award**

The Manager's Office recommends that the Township Board award the Delta Patrol Substation and the Community Development Remodel projects to Laux Construction, LLC.

Supervisor Fletcher requested Township Manager Watkins describe the project. Manager Watkins deferred to Deputy Manager Jenny Roberts, who

stated that a conference room is being added to the sub-station that is currently an open space that is not being utilized. Also, there is a new entrance being added in the rear of the sub-station for the Deputies. Deputy Manager Roberts also stated that the two secretaries would be situated more closely together and help create efficiencies for the Community Development Department as well as the residents. The entrance into the department is being opened up to be more aesthetically pleasing. A big plan review room will be added as well as a conference room which will not require much construction. There will be an additional 5 workstations in that area.

Treasurer Pizzo asked whether there were some walls being removed. Deputy Manager Roberts stated upon entry there will be a walk through counter to the left of the area and the secretaries will be past the counter. That there would be new carpet and electrical change-outs, workstations.

TRUSTEE MOJICA MOVED THAT THE TOWNSHIP BOARD AWARD THE DELTA PATROL SUBSTATION AND THE COMMUNITY DEVELOPMENT REMODEL PROJECTS TO LAUX CONSTRUCTION, LLC. IN THE AMOUNT OF \$53,300.00.

TREASURER PIZZO SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**13. Proposed Change to Employee Manual Chapter 1A**

The Manager's Office recommends that the Township Board amend the Employee Manual to reflect the intent of the Non-Discrimination Ordinance with regard to employment.

TRUSTEE FEDWA MOVED THAT THE TOWNSHIP BOARD ADOPT THE AMENDED EMPLOYEE MANUAL CHAPTER 1 SECTION A TO READ AS FOLLOWS: THIS TOWNSHIP IS AN EQUAL OPPORTUNITY EMPLOYER AND PROHIBITS DISCRIMINATION AND HARRASSMENT OF ALL KINDS. IT IS THE INTENT OF THE TOWNSHIP THAT NO PERSON BE DENIED EQUAL PROTECTION OF THE LAWS, NOR SHALL ANY PERSON BE DENIED THE ENJOYMENT OF HIS OR HER CIVIL OR POLITICAL RIGHTS OR BE DISCRIMINATED AGAINST BECAUSE OF ACTUAL OR PERCEIVED RACE, COLOR, OR RELIGION, NATIONAL ORIGIN, SEX, AGE, HEIGHT, WEIGHT, MARTIAL STATUS, PHYSICAL OR MENTAL LIMITATION, SOURCE OF INCOME, FAMILY RESPONSIBILITIES, SEXUAL ORIENTATION OR GENDER IDENTITY/EXPRESSION. NOTHING CONTAINED IN THIS CHAPTER SHALL BE CONSTRUED TO PROHIBIT ANY AFFIRMATIVE ACTION POLICIES PASSED BY ANY LEVEL OF GOVERNMENT.

TRUSTEE MOJICA SUPPORTED THE MOTION.

Trustee Hicks questioned why the motion doesn't mirror the ordinance that was just adopted, that "responsibilities" after familial should be "status". Manager Watkins stated that this motion didn't have the language updated. Trustee Hicks offered the change as a friendly amendment. Trustee Fedewa concurred, Supervisor Fletcher accepted as a friendly amendment. Manager Watkins assured that it would be updated with the correct language.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**14. Rules and Procedures for Processing, Investigating, Mediating/Conciliating, and Recommending Resolution of Complaints**

The Manager's Office recommends that the Township Board adopt the Rules and Procedures for Processing, Investigating, Mediating/Conciliating, and Recommending Resolution of Complaints with regard to the Non-Discrimination Ordinance.

**DELTA CHARTER TOWNSHIP NON-DISCRIMINATION COMPLAINT  
REVIEW COMMITTEE**

**RULES AND PROCEDURES FOR  
PROCESSING, INVESTIGATING, MEDIATING/CONCILIATING, AND  
RECOMMENDING RESOLUTION OF COMPLAINTS**

**SECTION 1**

**INTRODUCTION AND AUTHORITY**

Chapter 27 of the Delta Charter Township Code of Ordinances prohibits discriminatory practices, provides procedures for investigating and resolving complaints of discrimination, and establishes the Complaint Review Committee. Section 27-13(c) of the Delta Charter Township Code authorizes the Township Board to promulgate and publish rules and guidelines for processing, investigating, mediating/conciliating, and recommending resolution of complaints filed under this Ordinance. These rules and procedures are adopted by the Township Board pursuant to Chapter 27 of the Delta Charter Township Code of Ordinances.

To the extent permitted by law, the Committee will attempt to keep all complaints confidential. However, such complaints are considered public records under the Freedom of Information Act (P.A. 442 of 1976, as amended). All records, files, publications, correspondence, and other materials shall be available to the public as governed by the Freedom of Information Act. Further, the Committee is a public body, and all of its meetings are subject to and must be held in compliance with the Open Meetings Act (P.A. 267 of 1976, as amended).

## SECTION 2

### MEMBERS

By virtue of their appointments, all members agree to abide by these rules and procedures to be considered Committee members in good standing.

**A. Membership Composition.** The Committee shall consist of five (5) township residents appointed by the Township Board. To the extent possible, the Committee shall be representative of the population of Delta Township. One of the five individuals shall be a licensed Michigan attorney.

**B. Terms of Office.** The term of each appointed member shall be three (3) years, or until his or her successor takes office.

**C. Vacancies.** A Committee vacancy occurring otherwise than through the expiration of the term shall be filled for the unexpired term by action of the Township Board.

**D. Restrictions.** A Committee member shall hold no other Township office.

**E. Excused Absences.** To be excused, a member shall notify the Chair at least twenty (24) hours before a meeting from which he or she intends to be absent. If the Chair is not available, the member shall notify

the Vice-Chair, Secretary, or Township Manager (in that order). Failure to make such notification will result in an unexcused absence. If notification is given to anyone other than the Chair, that person shall notify the Chair at the earliest possible convenience.

**F. Resignation.** A member may resign by sending a letter of resignation to the Township Manager with a copy to the Complaint Review Committee Chair.

**G. Removal.** The Township Manager may recommend to the Township Board that a Complaint Review Committee member be removed for neglect of duty, or for malfeasance or misfeasance in office. Such removal shall be subject to a public hearing and a concurring majority vote of the Township Board. Any member missing two (2) consecutive regular Committee meetings during a calendar year may be deemed negligent of duty, unless such absences are excused. Any member may inform the Township Manager of instances of suspected neglect of duty, malfeasance or misfeasance by another member.

**H. Conflicts of Interest.** It shall be a conflict of interest for a Complaint Review Committee member to participate in the deliberation or to vote where the member may have a direct or indirect interest in the subject matter before the Complaint Review Committee. This includes but is not limited to situations where a Committee member is related to, employed by, employs, or in any way professionally represents a person (including a company) involved in the subject matter before the Committee.

Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Complaint Review Committee. The member shall be disqualified from voting on the matter upon a concurring majority vote of the remaining members of the Complaint Review Committee.

Failure of a member to disclose a potential conflict of interest constitutes malfeasance in office.

## SECTION 3

### OFFICERS

**A. Selection of Officers.** The Complaint Review Committee shall elect its officers (Chair, Vice-Chair and Secretary) from the appointed members of the Committee by a concurring majority vote of the members.

**B. Terms of Office.** The terms of the Chair, Vice-Chair, and Secretary shall be for one (1) year, or until a successor is elected. All Complaint Review Committee officers shall be eligible for re-election to consecutive terms for the same office.

**C. Vacancies.** If a Complaint Review Committee officer position becomes vacant before the end of the regular term of office, the Committee shall elect another person to fill the position in the same manner and under the same conditions outlined above for the remainder of the term of office.

**D. Duties of the Chair.** The Chair shall review and approve Complaint Review Committee meeting agendas in consultation with the Secretary, preside over all Committee meetings, and execute documents and official Committee correspondence in the name of and as directed by the Committee.

**E. Duties of the Vice-Chair.** The Vice-Chair shall perform the duties of the Chair in the absence or disability of the Chair.

**F. Duties of the Secretary.** The Secretary shall perform the following duties:

(1) Prepare Complaint Review Committee meeting agendas in consultation with the Chair.

- (2) Receive and distribute written correspondence to the Complaint Review Committee.
- (3) Prepare and maintain a permanent written record of the minutes for each meeting, which shall be recorded in suitable permanent records maintained by the Township Clerk. The minutes shall include a brief synopsis of public hearing comments and meeting business, a record of attendance and votes, and a complete restatement of the Committee's findings, conclusions, motions, actions, and conditions.
- (4) Ensure proper preparation and dissemination of Complaint Review Committee meeting and public hearing notices in consultation with the Township Clerk.
- (5) Swear in all parties and witnesses.

**G. Other Duties.** Complaint Review Committee officers shall perform such other duties as directed by the Committee or prescribed by these rules and procedures, state and local laws or the parliamentary authority set forth herein.

## SECTION 4

### DUTIES OF THE COMPLAINT REVIEW COMMITTEE

**A. General Duties.** The Committee shall perform the duties set forth in Sections 27-13 through 27-16 of the Delta Charter Township Code of Ordinances. As provided in Section 27-13(c), the Committee's duties and responsibilities include the following:

- (1) Be responsible for receipt, recordation, investigation, mediation, conciliation, recommendation, and/or referral to the Office of the Township Attorney;
- (2) Ensure there are no undue burdens placed on a Claimant, which might discourage filing of a discrimination complaint.
- (3) Commence and complete the complaint investigation, mediation/conciliation, and recommendation process in a timely manner;
- (4) Hold any complaint investigation, mediation/conciliation and recommendation in abeyance pending the outcome of any state or federal investigation being conducted regarding the same matter or incident forming the basis of the complaint; and
- (5) Refer a complaint it deems valid and sufficiently egregious directly to the Township Attorney for review and additional action.
- (6) Impose any penalties consistent with Section 27-17 of the Delta Charter Township Code of Ordinances.

**B. Review of Complaints.** The Committee will review each complaint to determine whether the complaint was timely filed and reasonably specific. Section 27-13 requires all complaints to be filed within 180 days of the incident that forms the basis of the complaint, and requires the complaint to set forth with reasonable specificity the following:

- the person or persons alleged to have violated Chapter 27;
- the specific nature of the alleged violation; and
- the date(s) of the alleged violation.

The Committee will inform claimants of untimely and/or vague complaints. In the event of a timely but vague complaint, the Committee may request the complainant to provide more detailed information before conducting or during the preliminary investigation.



The Committee will hold any complaint investigation in abeyance pending the outcome of any state or federal investigation being conducted regarding the same matter or incident forming the basis of the complaint.

The Committee may refer a complaint it deems valid and sufficiently egregious directly to the Township Manager for transmittal to the Township Attorney or review and additional action.

**C. Preliminary Investigations.** After receiving and reviewing a complaint, the Committee will conduct an investigation to determine whether the complaint and preliminary evidence gathered indicates a prima facie violation of any provision of the Non-Discrimination Ordinance (Chapter 27 of the Delta Charter Township Code). The term “prima facie” means that the facts provided by the complainant, if presumed to be true would demonstrate a violation of the Non-Discrimination Ordinance. This is not the final determination of the Committee, because the complaint may potentially be disproved by evidence to the contrary brought forth in the hearing. However, a finding by the Committee of a prima facie violation of the Non-Discrimination Ordinance alleged, shall require the Respondent to file a response to the alleged discrimination.

When conducting the preliminary investigation, the Committee shall follow the steps below as a guide.

- (1) Review applicable sections of the Non-Discrimination Ordinance.
- (2) Note, preliminarily, the apparent significant factual issues involved in the complaint.
- (3) Interview the complainant and examine all documentary evidence provided by complainant. (a) Listen attentively.  
(b) Encourage the complainant to describe the circumstances giving rise to filing of the complaint  
(c) Ask questions necessary to clarify or elicit additional information.  
(d) Seek specific information; use who, what, where, when, and how type questions. (e) Ask how the victim was affected by what happened and what redress s/he wants.  
(f) Ask for the names of persons with knowledge of matters related to the complaint, and of persons with whom complainant has spoken about the matter.  
(g) Ask for copies of any documents which may pertain to the reported event(s).
- (4) Analyze all information and determine whether the evidence provided to this point indicates a prima facie violation of Chapter 27 of the Code of Ordinances. All deliberation and any decision made must take place during a meeting of the Committee held in compliance with the Open Meetings Act.
- (5) Inform the complainant of the decision. State any factual findings and the rationale for those findings. If the decision is that there is evidence of a prima facie violation, then proceed to schedule a hearing and provide proper notice as required by Section 27-14 of the Code of Ordinances.
- (6) Prepare a list of likely witnesses and sources of pertinent information (e.g., a list of records or documents that may shed light on the underlying situation).

**D. Hearings.** During an investigatory hearing, the Complaint Review Committee may request the appearance of witnesses and the production of books, papers, records or other documents that may be relevant to a violation or alleged violation of this chapter.

All testimony taken at the hearing must be on the record, under oath and either recorded or transcribed. The Claimant will be permitted to testify first and present any evidence or witnesses. The Respondent will have an opportunity to review all evidence and cross examine all witnesses called by the Claimant. The Respondent will then be allowed to testify, present any evidence and witnesses to

testify on the Respondent's behalf. The Claimant will have an opportunity to cross-examine all witnesses called by the Respondent.

Members of the Complaint Review Committee may ask questions of the Claimant, Respondent, and any witnesses called by either party. Technical rules of evidence shall not apply.

If either the Claimant or the Respondent fail to cooperate with the Complaint Review Committee, such non-cooperation may result in an adverse determination for that person at the hearing.

The hearing must be conducted at a meeting of the Committee held in compliance with the Open Meetings Act. The Committee will attempt to keep the matter confidential to the extent permitted by law. The Committee will generally not discuss the complaint or the investigation with anyone except on a need to know basis.

The Committee will review and consider the testimony and the existence or lack of corroborating evidence, as well as any other factors that may be persuasive to determine the findings of fact. The findings of fact will be based on the testimony and evidence introduced at the hearing. In making its determination, the Committee may assess the credibility of the parties and witnesses, which calls for observing attitudes and behavior. The Committee may base the assessment on factors such as a witness's emotional affect, the timing of the complaint in relation to the occurrence of the behavior, or other factors that may allow for an inference about truthfulness or credibility of the individual involved.

The Committee shall then determine whether a violation of Chapter 27 has occurred based on the factual findings.

#### **E. Preparation of Findings**

The Committee's findings of fact shall be based on the testimony and evidence introduced at the hearing. The Committee shall prepare a written report, including a chronological rendition of the factual findings, the Committee's recommendations, and the rationale for any such recommendations. At a minimum, the report shall contain the following elements:

1. a description of the complaint;
2. a summary of the findings of fact based on the testimony of all parties and witnesses and any documents reviewed;
3. a conclusion as to whether a violation of Chapter 27 occurred and a statement of the supporting rationale; and
4. a statement of the recommended actions to be taken (Section 27-16), including any associated penalties (Section 27-17).

The Committee's recommendations may include, but are not limited to, one or more of the following:

- (a) Ceasing the illegal conduct cited in the complaint and taking steps to alleviate the effect of such illegal conduct;
- (b) Providing that the Respondent apologize to the Claimant;
- (c) Closing the matter based upon a mediation/conciliation agreement of the Claimant and Respondent;
- (d) Admitting the Claimant to a place of public accommodation or extending full and equal use and enjoyment of said place of public accommodation;
- (e) Paying some or all of the Claimant's costs, costs incurred at any stage of review;

- (f) Dismissing the complaint;
- (g) Imposing costs against a Claimant for a frivolously filed claim; and
- (h) Imposing penalties pursuant to Section 27-17.

The findings and recommendations shall be served on the parties involved in a complaint as required by Chapter 27 of the Delta Charter Township Code of Ordinances. The Claimant and Respondent shall have thirty (30) days from the date the findings and recommendations are served to either (1) comply with the findings and recommendations, unless a different time frame is provided by the Complaint Review Committee for compliance, or (2) object to the recommendation to the township board.

**F. Training and Education.** Complaint Review Committee members shall be responsible for attending training workshops, planning conferences or educational programs as needed to properly fulfill Complaint Review Committee duties, and for which appropriations of funds have been approved by the Township Board.

**G. Other Duties and Responsibilities.** The Complaint Review Committee shall perform such other duties and responsibilities as defined by the Township Board or required by state law or Township ordinance, and shall respond as requested to any other matters referred by the Township Board.

**H. Parliamentary Procedure.** The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Committee in all cases to which they are applicable and in which they are not inconsistent with these rules and procedures.

## SECTION 5

### MEETINGS

All business that the Complaint Review Committee may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, applicable state laws, Township ordinances, and these bylaws and rules of procedure.

**A. Schedule of Regular Meetings.** The Complaint Review Committee shall adopt a schedule of regular meeting dates for the next calendar year at its final regular meeting of the current calendar year. The Complaint Review Committee may schedule and hold regular meetings as deemed necessary to properly perform its duties and complete its work.

**B. Annual Meeting.** The first regular meeting of the Complaint Review Committee in each year shall be known as the Annual Meeting, and shall be for the purpose of electing officers and for any other business.

**C. Special Meetings.** Special meetings may be called by the Chair, or by any two (2) members of the Complaint Review Committee upon written request to the Secretary. The purpose of the meeting shall be stated in the notice.

Public notice of the time, date, and place of the special meeting shall be given in the manner required in the Open Meetings Act. The Chair or Secretary shall send written notice of a special meeting to Committee members not less than 48 hours before the meeting. Electronic transmittal of the notice is acceptable, provided that a record of the transmittal is kept by the Secretary.

**D. Quorum.** Three (3) members of the five (5) member Complaint Review Committee shall constitute a quorum for conducting business. No official action of the Committee may take place without a quorum,

except for closing a meeting. All public hearings without a quorum present shall be rescheduled for the next regular or special meeting.

**E. Order of Business.** The Chair shall follow a written agenda for all Committee meetings. Except where modified by the Chair and approved by the Committee, the order of business for Committee meetings shall be as follows:

1. Call to Order
2. Roll Call and Determination of a Quorum
3. Approval of Agenda
4. Approval of Minutes
5. Public Hearings
6. Old Business
7. New Business
8. Public Comments (non-agenda items)
9. Correspondence (non-agenda items)
10. Adjournment

**F. Public Hearings.** Hearings shall be scheduled and due notice given in accordance with Chapter 27 of the Delta Charter Township Code of Ordinances.

The procedures set forth in Section 4 D. herein shall apply to all public hearings conducted by the Complaint Review Committee

**G. Complaint Review Committee Deliberation and Consideration.** Where a public hearing is required by Township ordinance, the Committee shall not deliberate on the complaint until after the hearing has been closed to public comment. The Chair may recognize any Committee member to begin discussion and deliberation on any complaint.

**H. Motions.** Decisions of the Committee shall be based upon applicable ordinance standards, and relevant findings of fact.

At a minimum, Committee motions shall contain the following elements:

- (1) Summary of the complaint, the relevant sections of the Township ordinance deemed to have been violated, and the proposed recommendation.
- (2) Statement of findings of fact and conclusions that support the finding of the violation and the proposed recommendation. Members may choose to make a separate motion identifying relevant findings of fact before making a motion to make recommendations on the complaint.

The Chair shall ensure that all members are clear on the motion, and shall request that the motion be restated if necessary before a vote is taken. The name of the members who made and seconded each motion shall be recorded.

**I. Voting.** Affirmative votes from a majority of the quorum present at the meeting shall be required for the approval of any motion placed before the Committee.

- (1) Voting shall be by roll call vote, except that a voice vote shall be permitted for approval of agendas and minutes, election of officers, meeting adjournment, and similar non-substantive actions.

(2) Unless a member has been excused from voting due to a conflict of interest, all Committee members present at a meeting shall vote on all matters, with the Chair voting last.

(3) A member may be excused from voting only if that person has a bona fide conflict of interest, as recognized by the majority of the remaining members of the Committee. Any member abstaining from a vote shall step away from the Committee table, and shall not participate in discussion or action on the complaint.

**J. Notice of Decisions.** The Secretary shall prepare a written notice of the Committee decision, including the approved motion, findings of fact, and recommendation. The Chair and Secretary shall concur on the accuracy of the notice of the decision before it is served on the parties. Copies of the notice of the decision shall also be provided to the Township Clerk.

**K. Meeting Minutes.** Committee minutes shall be prepared by the Secretary of the Committee. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the findings and recommendations made on any action; and recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with the Township Clerk upon approval by the Committee.

## **SECTION 6**

### **EXPENDITURES**

All expenditures of the Committee shall be within the amount appropriated for Committee purposes by the Township Board.

## **SECTION 7**

### **PARLIAMENTARY AUTHORITY**

The parliamentary rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Complaint Review Committee as applicable and consistent with these rules and procedures.

## **SECTION 8**

### **ADOPTION AND AMENDMENT OF PROCEDURES AND RULES**

These procedures and rules may be amended from time to time by the Township Board by a majority vote thereof, provided that the amendment has been submitted in writing prior to the meeting for which a vote will be held on the amendment.

THESE PROCEDURES AND RULES WERE DULY ADOPTED BY A MAJORITY VOTE OF THE DELTA TOWNSHIP BOARD DURING ITS REGULAR MEETING HELD ON OCTOBER 21, 2013.

TRUSTEE MOJICA MOVED TO ADOPT THE RULES AND PROCEDURES FOR PROCESSING, INVESTIGATING, MEDIATING/CONCILIATING, AND RECOMMENDING RESOLUTION OF COMPLAINTS WITH REGARD TO THE NON-DISCRIMINATION ORDINANCE.

CLERK CLARK SUPPORTED THE MOTION.

THE MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**15. Recommendation to Approve the Appointment Policy for the Non-Discrimination Complaint Review Committee**

The Manager's Office recommends that the Township Board approve the appointment policy for the Non-Discrimination Complaint Review Committee.

Trustee Hicks noted that the language stating that the committee shall be comprised of "local business leaders" should be residents.

Clerk Clark noted that the reference to publishing should state once a year not twice.

Consensus was that the above be incorporated.

**APPOINTMENT PROCESS**

**NON-DISCRIMINATION COMPLAINT REVIEW COMMITTEE**

**Membership Composition**

The Committee shall consist of five (5) township residents appointed by the Township Board. To the extent possible, the Committee shall be representative of the population of Delta Township. One of the five individuals shall be a licensed Michigan attorney.

**Public Solicitation**

At least once a year the Clerk's Office advertises for applicants for all Township boards, commissions, etc. The Clerk's Office maintains a pool of applications and provides copies of applications of those who are requesting appointment to a specific committee/commission/board to the appropriate department involved.

Each member of the committee shall be a resident of Delta Township.

If there are no applications on file at the time of the vacancy, the clerk's office will advertise and/or recruit applicants based upon interest and/or involvement with the Township.

Existing members whose terms are expiring are required to request re-appointment if they so desire.

### **Selection Process**

Applications and/or requests for re-appointments are reviewed. Interviews are held as necessary of all interested candidates. Reviews of existing members are also done as terms expire. The Township Supervisor shall recommend the appointment of members of the Non-Discrimination Complain Review Committee.

### **Board Appointment**

A memo concerning a recommendation and motion for approval of the applicant is placed as an agenda item on a regular board agenda. The Clerk's Office will then notify the applicant of the appointment.

TREASURER PIZZO MOVED THAT THE TOWNSHIP BOARD APPROVE THE APPOINTMENT POLICY FOR THE NON-DISCRIMINATION COMPLAINT REVIEW COMMITTEE AS REFLECTING OUR LATEST CHANGES.

TRUSTEE MOJICA SUPPORTED THE MOTION.

MOTION PASSED 6-0 (TRUSTEE KOSINSKI ABSENT).

**xv. MANAGER'S REPORT - None**

**xvi. COMMITTEE OF THE WHOLE - Resolution asking State of Michigan amend the Elliott Larson Act.**

Trustee Fedewa presented Meridian Township's resolution which they have passed, with Delta Township inserted in place of Meridian Township. Trustee Fedewa suggesting adding language that the Township has passed a Non-Discrimination Ordinance and that the Township send a whole message out both locally and statewide – that it should be concurrent state effort.

Supervisor Fletcher stated that the Board would discuss the resolution at the next Regular Board meeting.

Clerk Clark reminded everyone that the Delta Township Community Awards is Thursday October 30<sup>th</sup> 5:30 p.m. – 7:30 p.m. at the Crowne Plaza Hotel, formerly The Lexington. Tickets are \$10 in advance and \$15 at the door.

**XVII. PUBLIC COMMENTS**

Cheryl Overley who resides at 4910 Grand Woods, Lansing, MI 48917 stated that they moved to Delta Township because they had to. That the local police department added to the strife, that she found she could co-exist with many different people. That the local school district would not enforce or follow the I.E.P.s (individual education plans) without being taken to court. Her interactions with Delta Township and local school district have been in direct contrast. People that she has worked with in the Township have treated her warmly and in a caring way. That the school district has been extremely proactive and accommodating. That she believes that the culture in Delta Township is truly a kind and caring one.

Supervisor Fletcher stated that the Township really does have some outstanding employees and that he and the Board appreciates her sharing her perspective.

**XVIII. ADJOURNMENT**

Supervisor Fletcher adjourned the meeting at 8:48 p.m.

CHARTER TOWNSHIP OF DELTA

KENNETH FLETCHER, SUPERVISOR

MARY CLARK, CLERK

/kt  
M:\Regular Board Meeting\BD\MIN\October 21, 2013  
Minutes Approved: